IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

WP(C).No. 5512 of 2006(F)

PETITIONER:

SARAMMA ITTICHERIYA, W/O.THE LATE
M.V.ITTICHERIYA, AGED 74 YEARS,
RESIDING AT TC 25/1053, L.V.M.R.NO. 136,
BARTON HILL, KUNNUKUZHI, TRIVANDRUM-37.

BY ADV. SRI.O.V.RADHAKRISHNAN (SR.)
SMT.K.RADHAMANI AMMA
SRI.ANTONY MUKKATH

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE TRIVANDRUM DEVELOPMENT AUTHORITY,
REPRESENTED BY ITS SECRETARY,
JAYA MANSION, VAZHUTHACAUD, SASTHAMANGALAM P.O.,
THIRUVANANTHAPURAM-695 010.

3. DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.

4. SPECIAL TAHSILDAR, ADDITIONAL LA UNIT,
VANCHIYOOR P.O., THIRUVANANTHAPURAM-695 035.

***5. UNITED TOURS AND TRAVELS PVT LTD.**
PULIMOOD, MG ROAD, TRIVANDRUM.
(TRIVANDRUM), 695 001.
REP. BY ITS MANAGING DIRECTOR,
SRI. P.N. JOSE.

***ADDL. R5 IS IMPLEADED AS PER ORDER DATED 20/03/2006 IN IA NO. 4063/2006.**

BY ADV. SRI.K.A.JALEEL, SC., TRIDA
SRI.P.GOPINATH --- R5
GOVERNMENT PLEADER SRI. NOBLE MATHEW

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/10/2007 ALONG WITH WPC NO. 15012/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 5512/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE SETTLEMENT DEED NO. 4297/2004 DT. 25/11/2004.

EXT.P2. COPY OF THE LEASE DEED DATD 10/12/79.

EXT.P3. COPY OF THE NOTICE NO. A2. 1361/03 DT. 22/7/05 OF THE R4.

EXT.P4. COPY OF THE NOTIFICATION NO. LRC1/38380/05 DT. 5/8/05 PUBLISHED IN KERALA KAUMUDI DAILY DT. 6/08/2005.

EXT.P5. COPY OF THE NOTICE NO. LAC 176/05 DT. 5/1/2006 OF THE SPECIAL TAHSILDAR, ADDL. LA. UNIT VANCHIYOOR.

EXT.P6. COPY OF THE PETITIOND T. 20/1/2006 OF THE PETITIONER.

EXT.P7. COPY OF THE PETITION DT. 24/1/2006 OF THE PETITIONER TO THE R2.

EXT.P8. COPY OF THE POSTAL ACKNOWLEDGEMENT RECEIVED BY THE R3 DT. 27/1/2006.

EXT.P9. COPY OF THE JUDGMENT IN WPC NO. 1238/2006 DT. 16/1/2006 OF THIS COURT.

EXT.P10. COPY OF THE ORDER DT. 30/6/2006 ON THE R.P. NO. 234/2006 IN WPC NO. 1238/2006 OF THIS COURT.

RESPONDENT'S EXHIBITS

EXT.R2A. COPY OF THE JUDGMENT DT. 16/1/2006 IN WPC NO. 1238/2006 OF THIS COURT.

EXT.R2B. COPY OF THE ORDER DT. 30/3/2006 IN RP NO. 234/2006 IN WPC NO. 1238/2006 OF THIS COURT.

True copy

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J.B. KOSHY, A.K.BASHEER & K.P.BALACHANDRAN,JJ.

W.P.(C)Nos.5512 of 2006
and
15012 of 2007

Dated this the 24th day of October, 2007

Judgment

Koshy,J.

Three questions arising out of interpretation of Section 49(1) of the Land Acquisition Act, 1804 (in short 'the Act') were referred to the Full Bench for consideration by a Division Bench of this court. These questions are:

> "1. Has Collector vested with power to reject the claim under Section 49(1) put forward by the owner to acquire entire building and proceed with acquisition of part of the building without court interventions?
>
> 2. Whether tenant can file a writ petition challenging the action taken by the Collector when the option under Section 49(1) is exercised by the landlord?
>
> 3. When the Collector accepted the option to acquire the entire building, whether only building materials are to be acquired or the entire building including the land where it is situated also need be acquired?"

2. W.P. (C) No. 5512 of 2006 was filed by the owner of the building situated in survey No.1254/1 of Vanchiyoor village, Thiruvananthapuram. A notification under section 4 (1) of the Land Acquisition Act was published for acquiring part of the land and building owned by the petitioner. Thereafter, declaration under section 4 (6) was also published according to law. Later, petitioner was asked to appear before the Land Acquisition officer on 20.1.2006 for filing a statement in writing showing the nature of interest in the land and the amount and particulars of claim and for making any objection to the measurement under section 8 of the Act. Son of the petitioner appeared before the Land Acquisition Officer and objection was filed signed by the petitioner expressing her desire to acquire the entire building in 0082 hectare land in survey No.1254/1 of Vanchiyoor village as contemplated under section 49 (1) of the Land Acquisition Act. Thereafter, a petition was also filed to the requisitioning authority also (Thiruvananthapuram Development Authority) requesting to acquire the whole building or exempt the whole building from acquisition. The tenant of the building filed W.P.(C) No.15012 of 2007 contending that only part of the building which is covered by the notification can be demolished. The above writ petition was disposed of by Ext.P9 judgment without

entering into the question of dispute argued, but, recording the undertaking that only a part of the building is required for widening of the approved alignment. Ext.P9 judgment in W.P. (C) No.1238 of 2006 is as follows:

> "The learned counsel for the second respondent submits on instructions that only a portion of the building that is actually required for widening of the approved alignment, will be demolished. This is recorded and this writ petition is disposed of accordingly, without entering on merits."

On coming to know of the above judgment, this writ petition was filed for issuing a writ of mandamus or appropriate direction directing the respondents to acquire the whole building bearing No.25/2426 of Thiruvananthapuram Corporation standing in Survey No.1244/part of Vanchiyoor village on the basis of the desire expressed by the petitioner in terms of section 49 (1) of the Land Acquisition Act before making the award under section 11 of the Land Acquisition Act or withdraw from the acquisition proceedings. The tenant in the building who filed the earlier writ petition was made as additional respondent No.5. W.P. (C) NO.15012 of 2007 was filed by two tenants for directing the Land Acquisition authorities and State not to acquire any portion of the building in

which they are doing business beyond the area notified under section 4 (1) of the Land Acquisition Act and quash the notice for handing over possession for demolition of the entire building at the request of the landlord under section 49 (1). They relied on the decision of a Division Bench of this Court in Shaji C. Varkey and another v. Collector (2007 (1) KLT 790). Since the question involved in these writ petitions were already referred including the correctness of the decisions in Shaji C. Varkey's case (supra) by reference order dated 20.3.2007 in W.P. (C) Nos. 9252 and 9267 of 2006, these two cases were also referred to the Full Bench. But, later, W.P.(C) Nos. 9252 and 9267 of 2006 were withdrawn. Therefore, in these two writ petitions, we have to answer the questions referred in the reference order in W.P. (C) Nos.9252 and 9267 of 2006.

3. We may extract section 49 (1) of the Act:

> "49. Acquisition of part of house or building:- (1) The provisions of this Act, shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be so acquired:
>
> PROVIDED that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such

> house, manufactory or building shall be so acquired.
>
> PROVIDED ALSO that, if any question shall arises as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building with the meaning of this section, the Collector shall refer the determination of such question to the court and shall not take possession of such land until after the question has been determined.
>
> In deciding on such a reference the court shall have regard to the question whether the land purpose to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building."

A reading of the above section shows that if part of any house or other building is proposed to be acquired and if the owner of that building desires that the whole building should be acquired, the entire building should be acquired. The Collector can either acquire the entire building or withdraw from the acquisition. If any question arises as to whether any land proposed to be taken under the Act does or does not form part of a house or building, that matter can be referred by the Collector for determination of such question to the court and Collector shall not take possession of such land until after the question has been determined and in deciding the same, court also should consider the question whether the land proposed

to be taken is reasonably required for the full and unimpaired use of the building.

4. In Shaji C. Varkey's case (supra), a Division Bench of this Court held that when an option is exercised by the landlord under section 49 (1), it is for the Collector to decide whether the entire building should be acquired along with the land paying compensation for the land and surrender possession of the land. The Division Bench observed as follows:

> "..... What S.49 (1) contemplates is acquisition of balance portion of the building and not building materials after demolition of building which is what respondents 3 and 4 have demanded. However, the only exemption we see to this position is when the Collector is of the view that the building is not good enough to be retained in public interest by paying compensation for the land also, and in that event it is upto him to pay compensation for the balance portion of the building, demolish it, recover it's value and then surrender possession of land to the owner. This is a matter to be decided on the facts applicable to each case."

After holding so, the writ appeal filed by the tenant was allowed with the following order:

> "..... However, in this case it is admitted that the area where the remaining portion of the building is situated is on the side of a busy thoroughfare where appellants are successfully carrying on business and the building returns rental income to respondents 3 and 4. Since

> respondents 3 and 4 oppose acquisition of land on which the remaining portion of building is situated, there is no justification for first respondent to acquire remaining portion of building in terms of request by respondents 3 and 4 by spending public money."

5. A Division Bench of this Court in Mohammed v. Project Director (1993 (1) KLT 730) held that once the owner expressed his option to acquire the entire building, Collector is bound to accept the same or withdraw from the acquisition itself. This is a right given exclusively to the owner to opt for acquisition of the entire property and nobody else. Even if the owner is not exercising the option and if he makes exorbitant claims under section 23 (1) for severance and injurious affection, still, State may be able to acquire the entire property under section 49 (2), but, we are not concerned with the powers of State under section 49 (2) in this judgment. It was argued that since the term 'owner' is not defined in the Acquisition Act and, therefore, the term 'owner' include a 'tenant' also. It is true that the word 'owner' is not defined in the Act, but, the term 'land' is defined under section 3 (a) as follows:

> "the expression 'land' includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;"

Therefore, it can be seen that a building permanently fastened to the earth is included in the definition of 'land'. The expressions 'person interested' is also defined under section 3 (b) of the Act as follows:

> "(b) the expression 'person interested' includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;"

Expression used under section 49 (1) is 'owner'. We can see that in sections 5A, 9,11, 18, 20 etc., the expression used is 'person interested'. Section 17 (2) proviso etc. also provides serving notice to the 'occupier'. Section 4 (2) proviso also refers to give seven days' notice to the 'occupier'. But, instead of using the expressions 'person interested' or 'occupier', section 49 (1) used the expression 'owner'. It manifests legislative intention to give the power under section 49 (1) only to the real owner and nobody else. The words 'person interested' or 'occupier' were not used in section 49 (1) with a purpose, considering the object of the enactment of that section. In the natural sense, 'to own a property' means 'to have a good legal title to the property' and 'owner' is one who has dominion of a thing, real or personal which he has the right to enjoy and to do

what as he pleases either to spoil or to destroy or transfer it as far as law permits unless he is prevented by any law, agreement or covenant which restrains his right. The popular definition of the words 'own a property' is the one who has the right to own the exclusive legal right to deal with the property. In other words, a person who holds legal title. Considering the fact that the expression 'occupier', 'person interested' and 'owner' are separately used in the Act under various section shows that intention of the legislature was only to give the actual owner in the natural sense to give a right to request the Collector to take the entire building if part of the building is acquired by the Government. It is true that the expression 'owner' is used in certain Statute may include equitable owner or a person who possesses the property as a tenant or occupier. But, in this Act wherever rights are given to 'person interested' or 'occupier' such rights are separately mentioned. In Shamsudheen v. District Collector (2000 (3) KLT 16), a Division Bench of this Court held that in exercising option under section 49 (1), the tenant has no voice. Several unreported decisions were also shown to us holding the same view.

6. We are of the view that the decisions of the Supreme Court in State of Bihar and another v. Kundan Singh and another

(AIR 1964 SC 350) is a complete answer to the first two questions mentioned in the reference order. In paragraphs 10 to 12 after quoting the section, a three member Bench of the Hon'ble Apex Court observed as follows:

> "The provisions of Section 49(1) prescribe, inter alia, a definite prohibition against putting in force any of the provisions of the Act for the purpose of acquiring a part only of any house, if the owner desires that the whole of such house shall be acquired. This prohibition unambiguously indicates that if the owner expresses his desire that the whole of the house should be acquired, no action can be taken in respect of a part of the house under any provision of the Act, and this suggests that where a part of the house is proposed to be acquired an a notification is issued in that behalf, the owner must make up his mind as to whether he wants to allow the acquisition of a part of his house or not. If he wants to allow the partial acquisition, proceedings would be taken under the relevant provisions of the Act and an award directing the payment of adequate compensation would be made and would be followed by the taking of possession of the property acquired. If, on the other hand, the owner desires that the whole of the house should be acquired, he should indicate his desire to the Land Acquisition Officer and all further proceedings under the relevant provisions of the Act must stop. This provision thus seems to suggest that if an objection is intended to be raised to the acquisition of a part of the house, it must be made before an award is made under Section 11. In fact, it should be made soon after the initial notification is published under Section 4; otherwise, if the proceedings under the relevant provisions of the Act are allowed to be taken and an award is made it would create unnecessary confusion and complications if the owner at that stage indicates that he objects to the acquisition of a part of his house; at that stage, it would no doubt be open to him

to claim adequate compensation in the light of the material provisions of Section 23 of the Act, but that is another matter.

11. The first proviso to Section 49(1) also leads to the same conclusion. If the owner has made Ins objection to the acquisition of a part of his house, it is open to him to withdraw or modify his objection before an award is made under Section 11 and if he withdraws his objection, further proceedings will follow and if he modifies his objection, steps will have to be taken as indicated in the other provisions of Section 49. This proviso, therefore, suggests that the objection of the owner to acquisition of a part of his house has to be considered and dealt before an award is made under Section 11.

12. It would be noticed that if an objection is made by the owner under Section 49(1), the Collector may decide to accept the objection and accede to the desire of the owner to acquire the whole of the house. In that case, further proceedings will be taken on the basis that the whole of the house is being acquired. In some cases, the Collector may decide to withdraw acquisition proceedings altogether, because it may be thought not worthwhile to acquire the whole of the house; in that case again, nothing further remains to be done and the notification issued has merely to be withdrawn or cancelled. But cases may arise where the Collector may not accept the claim of the owner that what is being acquired is a part of the house; in that case, the matter in dispute has to be judicially determined, and that is provided for by the second proviso to Section 49(1). Under this proviso, the Collector is under an obligation to refer the matter to the Court and he shall not take possession of the land under acquisition until the question is determined by the Court. In dealing with this matter, the Court has to have regard to the question as to whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house.

This decision was accepted by the Apex Court in M/s. Harsook Das Bal Kishan Das v. The First Land Acquisition Collector and others ((1975) 2 SCC 256). In that case, the Court also explained the difference between section 49 (1) and (2) and held that the object of section 49 (1) is to give the owner the option whether he would like part of the building to be acquired. In paragraph 12 it was held as follows:

> "12. The object of section 49 (1) of the Act is to give to the owner the option whether he would like part to be acquired. The Government cannot take the other part under section 49 (1) of the Act unless the owner says so. Section 49 (2) of the Act has nothing to do with section 49 (1) of the Act. Section 49 (2) of the Act gives the option to the Government only where the claim under the third clause of section 23 (1) of the Act is excessive. Reference to the third clause of section 23 (1) of the Act makes it clear that the claim under the third clause of section 23 (1) is for severance. The Government in such a case of acquisition of the remaining portion of the land under section 49 (2) of the Act saves the public exchequer money which otherwise will be the subject-matter of a claim for severance."

In view of the above authoritative pronouncement, it is very clear that option under section 49 (1) is to be made by the owner of the house or building when part of the building is sought to be acquired. Once the option is exercised, the Collector has no option but to acquire the entire building or withdraw from the acquisition. He has

no option to decide whether the option exercised by the owner is genuine or not and the tenant has no role in the same and tenant cannot file a writ petition if the Collector accept the request of the owner under section 49 (1). If there is any question arises whether any land proposed to be taken under the Act does or does not form part of the house or building, Collector can refer the matter to the Court and until decision is taken by the Court, Collector shall not take possession (second proviso). The reference to the court also is only to limit questions mentioned in second proviso. Therefore, Collector has no decision making power in this matter once the owner expresses the desire to acquire the entire building when part of the building is acquired. To that extent, we differ from the views expressed in Shaji Varkey's case (supra).

7. Next question is what is meant by acquisition of the 'whole of such house or manufactory' or building as mentioned under section 49 (1). When the Collector accepts the option to acquire the entire building, not only the building materials are to be acquired, but, the entire building including the land where the building is situated need be acquired. In Shaji C. Varkey's case (supra), the Division Bench rightly held that the landlord cannot exercise an option to acquire the building materials alone. His right

is to exercise option to acquire the entire building. 'Entire building' means the land where the building is situated. There is no provision under section 49 (1) enabling the land owner to compel the Collector to acquire the building materials alone and return the land where the building is situated. When landlord exercises the option under section 49 (1), State can acquire the entire building and decide either to demolish that part of the building or use it with or without necessary modifications. The decision of Harsook Das Bal Kishan Das's case (supra) is also that the land including the building has to be acquired once the landlord expresses desire to acquire the whole building. In Rajalakshmy v. Assistant Engineer and others (AIR 1980 Kerala 68 FB), majority of the judges held that when building alone is acquired, an order can be passed by the court for urgent removal of the building materials by the Government. But, in that case, Government acquired only the building materials and building was demolished. But, building materials were not removed and owner of the building approached the court for a direction to remove the building materials. The question when the building is acquired, whether land on which building is situated also to be acquired was not considered. A building cannot be acquired without the portion of the land where the building is situated. A constitution

Bench of the Supreme Court in D.G.Gose and Co. Pvt. Ltd. v. State of Kerala and another ((1980) 2 SCC 410) considered the meaning of the word 'building' in the context of Kerala Building Tax Act. Before considering the definition of 'building' under that Act natural and ordinary meaning was considered as follows:

> "21. The word 'building' has been defined in the Oxford English Dictionary as follows:
>
> > 'That which is built; a structure, edifice: now a structure of the nature of a house built where it is to stand.'
>
> Entry 49 therefore includes the site of the building as its component part. That, if we may say so, inheres in the concept or the ordinary meaning of the expression 'building'.
>
> 22. A somewhat similar point arose for consideration in Corporation of the City of Victoria v. Bishop of Vancouver Island (AIR 1921 PC 240) with reference to the meaning of the word 'building' occurring in section 197 (1) of the Statutes of British Columbia, 1914. It was held that the word must receive its natural and ordinary meaning as 'including the fabric of which it is composed, the ground upon which its walls stand and the ground embraced within those walls'. That appears to us to be the correct meaning of 'building'."

The above decision was followed by the Apex Court in T.Lakshmipathi and others v. P.Nithyananda Reddy and others ((2003) 5 SCC 150). It was observed as follows at paragraph 23:

> "23. In D.G. Gose and Co. (Agents) (L) Ltd. v. State of Kerala ((1980) 2 SCC 410) while dealing with Entry 49 of List II of the Seventh Schedule of the Constitution, making a reference to Oxford English Dictionary, this Court has held that the site of the building is a component part of the building and therefore inheres in it eh concept or ordinary meaning of the expression 'building'. Referring to Corpn. of the City of Victoria v. Bishop of Vancouver Island (AIR 1921 PC 240) it was held (at SCC p. 425, para 22) that the word 'building' must receive its natural and ordinary meaning as 'including the fabric of which it is composed, the ground upon which its walls stand and the ground embraced within those walls."

The meaning of section 49 (1) is made very clear by the decision of the Supreme Court in Deep Chand and others v. Land Acquisition Officer and others (AIR 1994 SC 1901). The Apex Court after quoting the section held as follows:

> "A reading of the above section shows that a right has been given to the owner of the land to object to the putting of the Act into force when only a part of any house, manufactory or other building is sought to be acquired and call upon the State to acquire whole of such house, manufactory or building. Therefore, what has been given is a right to object only to acquisition of part of the building, etc. without acquiring the whole of the house, manufactory building. In determining the question whether the land proposed to be taken was reasonably required for the full and unimpaired use of the house, manufactory or building left out of acquisition all that the Court has to examine is whether the objection is sustainable requiring the whole of the property, including the house, manufactory or other

> building, should be acquired or portion of the property proposed for acquisition should be left out of acquisition for full and unimpaired use of the house, manufactory or building, of the property proposed for acquisition. It is one of determination of the convenient use and enjoyment of the unacquired portion of the land or a building, manufactory or the other house. If the answer is in favour of the land owner, the only choice left to the Government is either to acquire the whole property or drop the proposed acquisition; It brings about no other consequence. In other words the law says --- acquire the whole property or leave it. But for the acquisition the owner is entitled to use the property in any manner he intends to make use or enjoy it. Obviously the decision by the Civil Court only hinges upon the convenient or unimpaired use and enjoyment of the house, manufactory or building with the residue of the land left over after acquiring the other property."

Therefore, the landlord has to express his desire to acquire the whole of the building. Once such a desire is expressed before award is passed, the Land Acquisition Officer has no option, but, to acquire the entire building including the land in which the building is situated or withdraw from the acquisition and the building includes the property in which the building is situated and if there is any dispute as to whether any land proposed to be taken does or does not form part of a house or building within the meaning of the section, the Collector has to refer the matter to the civil court and

await the decision of the civil court for taking possession of the land.

From the foregoing discussion, we hold as follows:

(1) Section 49 (1) gives power to the owner whose house or building is partly acquired to express his desire to acquire the entire building;

(2) The right of option given under section 49 (1) is only available to the 'owner' and not anybody including any 'person interested' or 'occupier', tenant, etc.;

(3) The expression of opinion to acquire the entire building need not be in any particular form, but, the expression of his desire should be clear for acquisition of the entire building;

(4) The above expression of opinion should be made before passing of the award;

(5) The owner of the building has a right to withdraw the option exercised before passing of the award;

(6) If the option of the owner to acquire the entire building as provided under section 49 (1) is accepted by the Land Acquisition Officer, tenant cannot challenge that decision;

(7) If the desire exercised by the owner to acquire the entire building is not acceptable, the only option for the Land Acquisition Officer is to withdraw from the acquisition.

(8) The words 'whole of such house or manufactory or building' includes land in which it is situated. In other words, when entire building is acquired, the land in which the building is situated also has to be acquired by the Government;

(9) If the owner expresses his opinion only to acquire the building materials excluding the land in which it is situated, it is not an option exercised under section 49 (1);

(10) If there is any dispute regarding issue specifically mentioned in second proviso, the matter should be referred to the court and Collector has no power to adjudicate the question under section 49 (1).

We answer the reference accordingly.

In view of the above, the writ petition filed by the tenants (W.P. (C) No.15012 of 2007) is dismissed as not maintainable and it is for the Land Acquisition Officer to accept the option exercised by the owner to acquire the whole building or to withdraw from the acquisition and W.P.(C) No.5512 of 2006 is

allowed. But, the owner is also given the right to withdraw from the option before award is passed.

Both writ petitions are disposed of accordingly.

J.B.KOSHY
JUDGE

A.K.BASHEER
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY,
A.K.BASHEER AND
K.P.BALACHANDRAN,JJ.

W.P.(C)Nos.5512/2006 and 15012/2007

Judgment

Dated:24th October,2007